

1906-002 Chancery Causes: Gdn. of Howell H. Fletcher & by vs. Howell H. Fletcher & Lee Co.

Hickham, Flanary

CA-Estate Dispute  
T-Property



To the Honorable H.A.W. Skeen, Judge of the Circuit Court of Lee County, Virginia:

Humbly complaining your orator W.E. Fletcher, Guardian for Howell H. Fletcher, Hutchie L. Fletcher, <sup>W.</sup>Roy Fletcher, David <sup>B.</sup>Fletcher Maud <sup>C.</sup>Fletcher and Theodore R. Fletcher, would respectfully show unto your Honor that at the last May term of Your Honor's Court he was appointed and qualified as the Guardian for the above <sup>a</sup>named wards; that their ages are as follows, to-wit: Howell H. 18 years of age, Hutchie L. 16 years of age, <sup>W.</sup>Roy, 12 years of age, David <sup>B.</sup> 10 years of age, Maude <sup>C.</sup> 8 years of age, Theodore R. 3 years of age.

Your orator will now show your Honor that his said wards are the owners in fee-simple of two small tracts of land lying in Lee County, Virginia, near each other, one of which lies on the north side of Powells Mountain and contains  $43\frac{1}{4}$  acres, and the other of which lies on the south side of Wallens Ridge, and contain  $53\frac{1}{4}$  acres, said two lots or tracts of land being lots No. 4 and No. 5 respectively, laid off and assigned to said wards in the partition of the lands of their Grand-father, David Banner, deceased, being a one-sixth interest which descended to them out of the real estate of their said grand father. Said partition of said land was made in the Chancery suit of V.S. Banner et al vs. Wyatt Cogger et al, lately depending in the Circuit Court of Lee County, Virginia, and report and plat showing said partition fully, is now of record in the office of the County Clerk of Lee County, in Deed Book No. 43 page 66, to which report and plat reference is here made for a more particular description of said land.

Your orator will now show your Honor that these two tracts or lots of land ~~are~~ all the real estate owned by his said wards, and that they will be entitled jointly to about \$700.00 in personalty which will be their distributive share in the estate of their grandfather, the said David Banner, deceased, and that they own no other real or personal estate, whatever.

Your orator will now show your Honor that in his opinion, the interest of his said wards would be greatly promoted by a sale of said land and a proper investment of the proceeds of the sale of the same. Said land is in two small tracts, each of which is too small for a farm, and if they were taken together are too small to be used profitably as a farm. There are no houses or other



buildings of any consequence on the said tracts so that it may be rented as a home to any one. The larger part of the land which is cleared is badly worn and cannot be made productive without the expenditure of considerable money; and that part of the land which is uncleared has had all the most valuable timber sold from it. And further some of said wards will soon be of age, and said tracts of land are so small that it will be impractical to partition the same between them, and the same would have to be sold for purposes of partition should they desire to have a partition of the same, which they doubtless would.

Your orator will now show your Honor that one C.F.Fannon has made to him a proposition to buy said land, offering therefor the sum of \$1350.00, of which \$450.00 was to be paid cash in hand, and the residue to be paid in four equal annual installments. This being a good price for said land, your orator accepted said proposition, subject to the approval of the Court, and the said Fannon paid to your orator the said sum of \$450.00 and executed his notes or bonds for the said deferred payments and delivered them to your orator. Your orator thinks that this is a very advantageous sale of said lands and that the same should be approved by your Honor and carried through to completion.

Your orator will now show your Honor that if the said infants, his wards, were dead, that he, their father would be their sole heir. And your orator believes and alleges that the interests <sup>or rights</sup> of no persons will be violated by a sale of said lands and the investment of the proceeds thereof.

The prayer therefore of your orator is that Howell H., Hutchie L., W.Roy, David B., Maude C. and Theodore R. Fletcher, be made the parties defendant to this bill; that the said Howell H. and Hutchie L., being infants over the age of 14 years answer said bill under oath, and that the other of said infant defendants answer by their guardian ad litem assigned to defend them in this suit; that upon a final hearing the said sale of said land made by your orator to the said C.F.Fannon be approved and confirmed, and that one of the Court's Commissioners be directed to make a deed to the said Fannon for said land; but if the Court deems better not to approve said sale, then that said land may be sold at public outcry to the



highest bidder and the proceeds invested as the Court may direct;  
that all proper allowances and counsel's fees may be made in  
this suit, and for full general relief.

Duncan & Cridlin. P.Q.

Virginia, Lee County: to wit:

I, Geo. P. Cridlin, a Commissioner in Chancery  
for the Circuit Court of Lee County, Va., ~~this~~ do  
hereby certify that W. E. Fletcher this day  
personally appeared before me and made  
oath that the statements made in the  
foregoing bill, so far as they depend  
upon his own knowledge are true,  
and so far as they depend upon  
knowledge derived from others he believes  
them to be true.

Given under my hand this the  
5<sup>th</sup> day of April, 1906.

Geo. P. Cridlin Comm. in  
Chancery.



W. E. Fletcher, Guard.

12. { Bill in Chy.

Howell H. Fletcher et al

1905: 1<sup>st</sup> Sept Rules  
Bill filed

" 2<sup>nd</sup> Sept Rules  
Cause set for  
hearing.

\$6.87  
1.50  
10.00  
25.00  
\$43.37

Costs:  
Book  
Notary  
S.A.R.  
Chy.



To the Honorable H.A.W. Skeen, Judge of the Circuit Court of  
Lee County, Virginia:

The answer under oath of Howell A. Fletcher,  
who is an infant under the age of twenty-one years, but over the  
age of fourteen years, to a bill of complaint exhibited against  
him and others in this Honorable Court by W.E. Fletcher, Guardian  
&c.

For answer to said bill, or so much thereof as respondent is  
advised that it is material or necessary that he should an-  
swer the same, respondent says:

~~Respondent says~~ That he is still an infant being only 19 years  
of age, and by reason of his infancy knows but little about the  
advisability of selling the lands in the bill sought to be sold,  
but so far as he does know, he believes that all the allegation  
of said bill are true, that a sale of said land, for a fair price,  
would be advantageous to the interests of himself and his brothers  
and sister, that he knows of no reason why the prayer of the plain-  
tiff's bill should not be granted, and he accordingly concurs in  
said prayer, relying upon the court to fully protect his interest.

And now having fully answered respondent prays to be hence  
dismissed with his costs. And he will ever pray &c.

W.E. Fletcher

State of West Virginia  
County of Kanawha :- to-wit:

I, A.P. Shrewsbury a Notary Public  
in and for the County and State aforesaid do certify that W.E.  
Fletcher this day personally appeared before me and made  
oath that the statements made in the foregoing answer, so far as  
they depend upon his own knowledge are true, and so far as they  
depend upon knowledge derived from others he believes them to be  
true.

Given under my hand, <sup>and seal</sup> this the 3<sup>rd</sup> day of February, 1906.

A.P. Shrewsbury, Notary Public





W. E. Fletcher  
vs. { In Chg.  
Howell A. Fletcher

Answer of  
Howell A. Fletcher.

Filed May 1, 1906

J. H. T. Goring.  
Clerk.



To the Honorable H.A.W. Skeen, Judge of the Circuit Court of  
Lee County, Virginia:

The answer under oath of Nutchie L. Fletcher,  
who is an infant under the age of twenty-one years, but over the  
age of fourteen years, to a bill of complaint exhibited against  
him and others in this Honorable Court by W.E. Fletcher, Guardian  
&c.

For answer to said bill, or so much thereof as respondent is  
advised that it is material or necessary that he should an-  
swer the same, respondent says:

~~Respondent says~~ That he is still an infant being only 14 years  
of age, and by reason of his infancy knows but little about the  
advisability of selling the lands in the bill sought to be sold,  
but so far as he does know he believes that all the allegation  
of said bill are true, that a sale of said land for a fair price  
would be advantageous to the interests of himself and his brothers  
and sister, that he knows of no reason why the prayer of the plain-  
tiff's bill should not be granted, and he accordingly concurs in  
said prayer, relying upon the court to fully protect his interest.

And now having fully answered respondent prays to be hence  
dismissed with his costs. And he will ever pray &c.

Nutchie L. Fletcher

State of Nash Virginia  
County of Norfolk :- to-wit:

I, Wm. Dickerson a Notary Public  
in and for the County and State aforesaid do certify that Nutchie  
L. Fletcher this day personally appeared before me and made  
oath that the statements made in the foregoing answer, so far as  
they depend upon his own knowledge are true, and so far as they  
depend upon knowledge derived from others he believes them to be  
true.

Given under my <sup>real</sup> hand this the 2 day of Feb'y, 1905.

Wm. Dickerson  
Notary Public



W. E. Fletcher Guardian  
vs. { In Chy  
Howell H. Fletcher Adm

Answer of  
Howell H. Fletcher.

Filed May 1, 1906  
J. H. T. Ensign,  
Clerk





To the Honorable H.A.W. Skeen, Judge of the Circuit Court of  
Lee County, Virginia:

The answer of Howell H. Fletcher, Hutchie L. Flether, W. Roy  
Fletcher, David B. Fletcher, Maude C. Fletcher and Theodore R. Fletcher,  
by L.T. Hyatt, their guardian ad litem assigned to defend them in  
this suit, to a bill of complaint exhibited against them in this  
Honorable Court by W.E. Fletcher Guardian &c.

Respondents reserving to themselves the benefit of all just  
exceptions to said bill, for answer thereto, or to so much thereof  
as they are advised it is material or necessary that they should  
answer the same, by their said guardian ad litem answering say:

That they are infants of tender years, and by reason of their  
infancy, are incapable of understanding or of taking care of their  
rights and interests. They therefore by their said guardian ad  
litem, commend themselves and their rights and interests to the pro-  
tection of the Court and pray that no decree may be pronounced which  
will tend to their prejudice.

And now having fully answered, the said respondents pray to be  
hence dismissed, with their reasonable costs in this behalf expended.

L.T. Hyatt  
Guardian ad litem for Howell H. Hutchie  
L., W. Roy, David B., Maude C.,  
and Theodore R. Fletcher.

Sworn to before me by L.T. Hyatt guardian ad litem for the  
above named infants, this the 19 day of September, 1905.

L. H. T. Ewing, Clerk,



W. E. Fletcher Guard &c.  
n. { In Chy.

Howell H. Fletcher et al

S. A. L. Answer.

Filed Sept. 19, 1905.

J. H. T. Ewing, clk

Fee allowed \$10<sup>00</sup>



W. E. Fletcher, Guard. &c. - - - - - Plaintiff.

Vs.

Howell H. Fletcher et al - - - - - Defendant.

This cause came on this day to be heard upon the papers formally  
read therein and was argued by counsel: On consideration of which,  
and there appearing nothing further to be done in the cause, the  
same is stricken from the docket.



W. E. Fletcher Esq

vs. { In Chy.

Howell H. Fletcher

Final Decree

Entered in C.O.B.

#8, page 224

Enter this Decree

H a w Sine

Dec. 10 1906.



W. E. Fletcher, Guard for &c. - - - - - Plaintiff,

vs.

In Chancery.

Howell H. Fletcher et al. - - - - - Defendants.

This cause came on this day to be heard upon the papers formerly read in the cause, and the report of Geo.P.Cridlin, Special  
filed on the 4th day of September, 1906,  
Commissioner, and deed therewith, and was argued by counsel;

On consideration of all of which, and there being no exceptions to said report, and said deed having been seen and inspected by the Court and found to have been executed in accordance with the terms of the decree ordering the same entered in this cause on the 29th day of May, 1906, it is therefore, adjudged, ordered and decreed that said report of said Commissioner and said deed therewith be, and the same are hereby approved and confirmed, and the Clerk of this Court is hereby directed to deliver said deed to said C.F.Fannon upon his applying for the same.

It is further adjudged, ordered and decree that the said C.F. Fannon purchaser of said land, pay to the said Commissioner Geo.P. Cridlin, the sum of \$5.00 for executing said deed, for which sum execution may issue if desired.



W. E. Fletcher Guard

12. { In Oly

Howell A. Fletcher

Final Decree

Entered in C.O.B.  
#8, page 195 ve.

Enter this Decree  
Sept. 17, 1906  
J. A. W. Simon



W. E. FLETCHER, Guard. for &c - - - - - Plaintiff,

vs.

In Chancery.

HOWELL H. FLETCHER ET AL - - - - - Defendants,

This cause came on this day to be heard upon the Bill of the plaintiff, duly sworn to; the answer of L.T. Hyatt, Guardian ad litem for the infant defendants, and the separate answers, under oath of Howell H. Fletcher and Hutchie L. Fletcher, infant defendants over the age of 14 years, filed in said cause on the 1st day of May 1906, and general replication to said answers, and the depositions of witnesses; and was argued by counsel:

On consideration of all of which, and it appearing to the Court that the sale made by the plaintiff, acting as the guardian of the infant defendants, of the lands in the Bill and proceedings mentioned, belonging to said infants to C.F. Fannon at the price of \$1350.00, is an advantageous sale; that a confirmation and consummation of said sale will promote the interests of said infants, and that the interests of no person or persons will be violated by such sale of said two tracts of land; it is therefore adjudged ordered and decreed that the contract of sale heretofore entered into between the said W.E. Fletcher, Guardian for Howell H., Hutchie L., W. Roy, David B., Maude C., and Theodore R. Fletcher, and C.F. Fannon, whereby the said Fletcher, Guardian sold to said C.F. Fannon the two tracts of land laid off and assigned to his said wards in the partition of the real estate of their grandfather David Banner deceased, and the said C.F. Fannon bound himself to pay therefor the sum of \$1350.00, \$650.00 cash in hand, and the residue in four equal annual installments, be and the same is hereby approved and confirmed by the Court; and Geo. P. Cridlin, who is hereby appointed a Special Commissioner for the purpose, is hereby directed to convey said two tracts of land to the said C.F. Fannon, by good and sufficient deed with covenants of Special Warranty, retaining in said deed a vendor's lien to secure the payment of the deferred purchase money; *and report same to the next term of this Court.* and the said W.E. Fletcher, Guardian as aforesaid will proceed to collect the residue of said purchase money as the same be-



W. E. Fletcher Fund

vs. { In Chy

Howell A. Fletcher et al

Entered in C.C.B.

#8 page 187+0

Enter this decree

Hawson

May 29, 1906-



H. B. Fletcher Guardian &c

vs.

Howell H. Fletcher et al.

Upon the calling of this cause  
L. J. Ryatt guardian ad litem asked  
leave to file the answer of said Defendants  
all of whom are infants which leave was  
granted and said answer was accord-  
ingly filed to which the plaintiff replied  
generally, and Howell H. Fletcher and  
Fletcher B. Fletcher infants over 14 years  
are given until the 1st Nov ruled to file  
their answers under oath. And the cause  
is continued.



W. E. Fletcher Card 76

no 1/2 Decree

Howell L. Fletcher D.

Entered in C.  
O. B. 8, page 62 -

Enter this decree

• It is a decree

Sept 18<sup>th</sup> 1905



CIRCUIT COURT FOR LEE COUNTY.

The depositions of W. S. Hickham and Elkanah Flanary taken at the law office of James W. Orr in Jonesville, Lee County, Virginia, on the 28th day of May, 1906, pursuant to agreement between counsel for the plaintiff and the Guardian Ad Litem for the infant defendants before me A. O. Brown a Notary Public for the said County to be read as evidence in behalf of the plaintiff in a certain suit in chancery wherein W. E. Fletcher Guardian &c. is plaintiff and Howell H. Fletcher, et al, are defendants.

PRESENT:

Duncan & Cridlin attorneys  
for the plaintiff.

L. T. Hyatt Guardian Ad Litem  
for the infant defendants.

- Q. Please state your age, residence and occupation?
- A. I am 50 years old, live on Wallen's Creek, Lee County, Virginia, and am a farmer.
- Q. Are you acquainted with the two parcels of land assigned to the children of W. E. Fletcher the defendants in this cause in the of the home farm of their grandfather David Banner, deceased?
- A. I am acquainted with the land, and live in about 2 1/2 miles of it.
- Q. Mr. Fletcher, the guardian for the infants children has contracted the said ~~land~~ two parcels of land to C. F. Fannan at the price of \$1350.00/ please state if in your opinion this price a fair price for the said two parcels of land.
- A. I consider it a fair price for the land. Mrs. Baker and Mrs. Koger two of Mr. Banner's daughters have sold their shares in said land as I am informed, and correctly, I believe, for \$1000.00 in
- Q. Please state whether or not your opinion it would be advantageous to the said infant defendant that the said contract of sale be confirmed and approved by the court, and if so why?



- A. I consider the interest on that money worth more than the rents of the land, and that it would be to the advantage of the infant that the court confirm the sale.
- Q. Are there any valuable buildings on the Land?
- A. There is one house that Mr. Banner kept for tenants, just a common tenent house.
- Q. Is the land in a good state of cultivation?
- A. A part of it is, and a part is in grass and bushes, and has been for several years.
- Q. Is ther any valuable marketable timber on the land.
- A. Mr. Banner himself sold off all the poppar timber on the land, and there is nothing left except some poor timber, and the closest market is about 11 miles, Duffield.
- Q. Are these two parcels of ~~kink~~ land fenced separate from the rest of the David Banner land, or were they at the time of the ~~xxix~~ partition of the land.
- A. At the time of the partition it was not fenced separately, but since the contract of sale, Mr. Fletcher and Mr. Gillen~~s~~waters have fenced them separately.
- A. In yo r opinion would the rights of any person be violated by the confirmation of this contract.of sale.
- A. I suppose not.
- And further this deponant saith not.

Signature waived .

22222"\*\*\*\*\*"

The deposition of Elkanah Flanary being first duly sworn deposes and says:

- Q. State your age, residence and occupation?
- A. 43 years of age, live on Wallens Creek in Lee County, Virginia, and am a farmer.
- Q. Are you acquainted with the two parcels of land paid off and assigned to the children and Mr. W. E Fletcher in the in the partition of the home farm of David Banner, their grandfather?



A. I am acquainted with it I was one of the ommissioners that helped divide the land.

Q. Please state whether or not in your opinion it would be to the advantage of the said infant children to have confirmed a contract of sale made by W. E. Fletcher, guardian, to C. F. Fannan at the price of \$1350.00, of said land?

A. I think the money on interest would be better for the children than the land, and that it would be to their interest to sell t e same.

Q. Do you consider \$1350.00 a fair price for the land.

A. Yes sir, I think it is all that it is worth. I have seen better land sell on Wallens Creek for a \$1000.00, in fact Mr. Gillenwaters some of the shares of this land for \$100.00 when I was diving the land. He bought Mrs. Baker's and Mrs. Cöger, and also the shares of Dr. Koger's children.

And further this deponant saith not.

Signature waived.

No attendance claimed by either witness.

Virginia Lee County, to-wit:

The foregoing deposition of W. S. Hickham and Elkanah Flanary were taken and sworn to before me at the time and place and for the purpose in the caption mentioned, the signatures of the witnesses being waived.

Given under my hand this the 28 th day of May, 1906.

C. C. Brown N. P.



W. C. Fittetur, Guard &c.  
vs. { In Chy  
Howell H. Fittetur. H.  
Depositions

Filed May 29, 1906.  
H. C. V. Goring,  
clerk.

Notary fee \$1.50



W. E. Fletcher, Guard for &c. - - - - - Plaintiff.

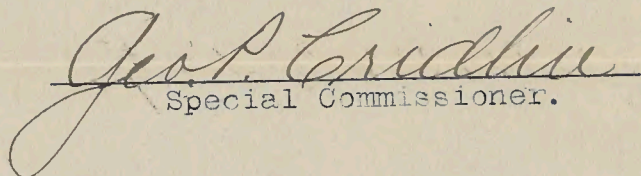
vs. In Chancery.

Howell H. Fletcher et al. - - - - - Defendants.

To the Honorable H.A.W.Skeen, Judge of the Circuit Court of  
Lee County, Virginia:

The undersigned, who was by a decree entered in the above  
styled cause on 29th day of May, 1906, appointed a Special Commis-  
sioner for the purpose and directed to convey by deed with covenants  
of Special Warranty, the land in the bill and proceedings mentioned,  
belonging to the wards of the plaintiff, to C.F.Fahnon, begs leave  
to report that pursuant to said decree he has executed and acknowl-  
edged said deed and he herewith files the same marked "Deed"  
for the inspection of the Court.

Respectfully Submitted.

  
Special Commissioner.



W. E. Fletcher Guard.  
vs. { In Chy.

Howell H. Fletcher

Report of Aud

Filed Sept. 4, 1906

H. C. J. Ewing,  
Clerk.



The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*Howell H. Hutchins L.  
Roy, David, Maudie & Theodore B. Fletcher*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on  
the *1st* Monday in *September*, 190*5*, to answer a bill in chancery exhibited against *them*

*by W. E. Fletcher, Guardian*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *29* "  
day of *August*, 190*5*, and 1 *30* " year of the Commonwealth.

A Copy, Teste:

*H. C. T. Ewing*, Clerk.

*H. C. T. Ewing*, Clerk.



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*W. E. Fletcher* *vs.*

VS

}

SUBPOENA  
IN  
CHANCERY.

*Howell H. Fletcher*

*et al*

*Duncan & Bridgman* p. q

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To *1st September* Rules.  
*Lee Circuit* Court.

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